

Docket No.: 111472.120US1

PATENT

#3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

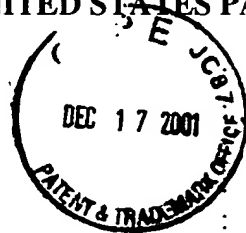
In re Application of

Peter J. McCARTHY et al.

Serial No. 09/809,429

Filed: March 16, 2001

For: SYSTEM, METHOD AND MEDIUM FOR TRADING FIXED INCOME SECURITIES



Group Art Unit: 2161

Examiner:

PETITION UNDER 37 C.F.R. § 1.47(a)

Honorable Commissioner for Patents  
Washington, D. C. 20231

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DEC 19 2001

OFFICE OF PETITIONS

Sir:

Signing inventor Peter J. McCarthy hereby petitions to allow the above-identified application to be made on behalf of himself and non-signing inventor Kevin Ingram.

Accompanying this petition are:

- (a) a declaration signed by Mr. McCarthy;
- (b) a statement of facts in support of Mr. Ingram's refusal to sign the declaration; and
- (c) Mr. Ingram's last known address.

The Commissioner is authorized to charge Deposit Account No. 08-0219 the fee of \$130.00 to cover the cost of the fee specified by 37 C.F.R. 1.17(i). Any deficiency or overpayment should be charged or credited to Deposit Account No. 08-0219.

Respectfully submitted,

HALE AND DORR LLP

Gregory S. Discher  
Registration No. 42,488

12/13/2001 SLUANG1 00000068 080219 09809429  
01 FC:122 130.00 CH

The Willard Office Building  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004  
202 942 8437 GSD:lrr  
Date: 12/17/01

COPY

PATENT ASSIGNMENT

This Agreement, entered into June 5, 2001 ("Effective Date"), is made by and among (a) Peter McCarthy, residing at 27 West 86<sup>th</sup> Street, New York, New York 10024, Kevin Ingram, residing at 55-1909 River Drive South, Jersey City, New Jersey 07310 (together "Assignors"), and (b) TruMarkets, Inc., a Delaware corporation with a principal place of business at 34 West 33<sup>rd</sup> Street, New York, New York 10001 ("Assignee").

WHEREAS, Assignors are and/or have been employees of Assignee;

WHEREAS, the Patent Rights (as defined herein) were developed in connection with Assignors' employment with Assignee, and Assignors wish to assign to Assignee all of their rights, title and interest in and to the Patent Rights under the terms and conditions set forth herein; and

WHEREAS, Assignee wishes to accept such assignment.

NOW THEREFORE, for U.S. \$10.00 (TEN DOLLARS) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. a. Assignors hereby sell, assign, and transfer to Assignee, and Assignee hereby accepts, all rights, title and interest in and to, the patents and patent applications specified below, together with all rights, powers, privileges, defenses and immunities arising or accrued therefrom (the "Patent Rights"), including without limitation all rights in and to the inventions disclosed therein, and all reissues, continuations-in-part, revisions, extensions, and reexaminations thereof, and all rights of priority with respect thereto under any international agreements to which the United States adheres, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, in and to all causes of action (either in law or in equity) and the right to sue, counterclaim, and recover for past, present and future infringements of the rights assigned to Assignee hereunder, and in and to the exclusive right to enforce such patents and patent applications in the United States and throughout the world in the sole name of Assignee, its successors or assigns.

Patent Application No.  
09/809429

Names of Applicants  
Peter McCarthy  
Kevin Ingram

b. Assignors agree to execute such documents and perform such acts as may reasonably be requested by Assignee, at Assignee's expense, to give further effect to the terms and provisions hereof.

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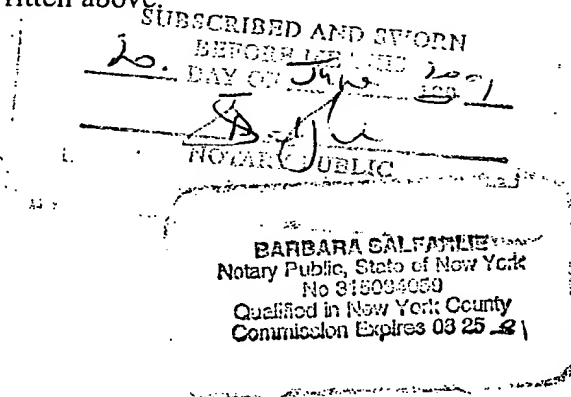
COPY

2. Assignors acknowledge receipt of the total sum of U.S. \$10.00 (TEN DOLLARS) from Assignee in consideration of the transactions contemplated hereby.

3. This Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their respective successors, executors, administrators, representatives, heirs and assigns.

COPY

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.



ASSIGNORS

[Signature]  
Peter McCarthy

[Signature]  
Kevin Ingram

ACKNOWLEDGEMENT

Sworn to  
Executed before me this  
17 day of June, 2001.

(Kevin  
Ingram)

[Signature]  
Marie E. Stareck

Notary Public

State of New York

MARIE E. STARECK  
NOTARY PUBLIC, State of New York  
Qualified in New York County  
No. 31-4848095  
Term Expires December 31, 18 2001

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ASSIGNEE

TRUMARKETS INC.

By: [Signature]  
Name: Peter J. McCarthy  
Title: SMD

ACKNOWLEDGEMENT

Executed before me this  
14 day of June, 2001.

[Signature]

Notary Public

BARBARA SALTARIE  
Notary Public, State of New York  
No 315034059  
Qualified in New York County  
Commission Expires 03 25 01

State of Delaware  
Office of the Secretary of State

---

COPY  
PAGE 1

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"TRUMARKETS, INC.", A DELAWARE CORPORATION,  
WITH AND INTO "TRUMARKETS, LLC" UNDER THE NAME OF  
"TRUMARKETS, LLC", A LIMITED LIABILITY COMPANY ORGANIZED AND  
EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED  
AND FILED IN THIS OFFICE THE EIGHTH DAY OF JUNE, A.D. 2001, AT 4  
O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE  
NEW CASTLE COUNTY RECORDER OF DEEDS.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

3387990 8100M

AUTHENTICATION: 1183367

010277160

DATE: 06-12-01

**Subject: RE: Patent Application**

**Date:** Fri, 16 Mar 2001 17:38:04 -0500

**From:** David Lestz <David.Lestz@TruMarkets.com>

**To:** 'Gregory Discher' <Gregory.Discher@haledorr.com>

COPY

Greg,

As per Kevin Ingram's instruction, please file and thank you for your help.

I guess we can speak on Monday.

Thanks again.

David

-----Original Message-----

From: Gregory Discher [<mailto:Gregory.Discher@haledorr.com>]

Sent: Friday, March 16, 2001 5:30 PM

To: Lestz David

Subject: Patent Application

David:

I switched the ordering of the inventors names.

Please authorize us to file the application ASAP so it can be done today.

Thanks,

Greg

+++

This e-mail message and any attachments are confidential and may be privileged. If you are not the intended recipient, please notify Hale and Dorr LLP immediately -- by replying to this message or by sending an e-mail to [postmaster@haledorr.com](mailto:postmaster@haledorr.com) -- and destroy all copies of this message and any attachments. Thank you.

For more information about Hale and Dorr LLP, please visit us at <http://www.haledorr.com>.

HALE AND DORR <sup>LLP</sup>  
C O U N S E L L O R S   A T   L A W

haledorr.com

THE WILLARD OFFICE BUILDING  
1455 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. 20004-1008  
202-942-8400 • FAX 202-942-8484



COPY

GREGORY S. DISCHER

202-942-8437  
gregory.discher@haledorr.com

September 19, 2001

By Certified Mail

Kevin Ingram  
55-1909 River Drive South  
Jersey City, New Jersey 07310

RECEIVED

DEC 19 2001

OFFICE OF PETITIONS

Re: U.S. Patent Application No. 09/809,429  
For: SYSTEM, METHOD AND MEDIUM FOR TRADING FIXED INCOME  
SECURITIES  
Our Reference: 111472.120US1

Dear Mr. Ingram:

Further to my telephone message of September 18, 2001, enclosed please find a Declaration and Power of Attorney form for the above-referenced patent application. Please execute the form and return it to our office no later than September 28, 2001. We have enclosed a self-addressed stamped envelope for your convenience.

Please do not hesitate to contact me should you have any questions.

Very truly yours,

Gregory S. Discher

GSD:lrr



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PATENT/OFFICE

Docket No.: 111472.120US1

DECLARATION AND POWER OF ATTORNEY RECEIVED

As a below named inventor, I hereby declare that:

DEC 1 9 2001

My residence, post office and citizenship are as stated below next to my name,

OFFICE OF PETITIONS

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plus names are listed below) of the subject matter claimed and for which a patent is sought on the invention entitled:

SYSTEM, METHOD AND MEDIUM FOR TRADING FIXED INCOME SECURITIES,

the specification of which was filed on March 16, 2001 as Application Serial No. 09/809,429.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to me to be material to patentability in accordance with Title 3 Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT international application which designated at least one country other than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

**Prior Foreign Application(s):**

**Priority Claimed**

Number    Country    Day/Month/Year filed

Yes    No

I hereby claim the benefit under 35 USC 119(e) of any United States provisional application(s) listed below.

**Prior Provisional Application(s):**

Application Number    Filing Date

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s), or Section 365 of any PCT international application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided in the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

**Prior U. S. Non-Provisional Application(s):**

Serial No.

Filing Date

Status: Patented, Pending, Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information as

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belief are believed to be true; and further that these statements were made with the knowledge that willful false statements are the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby grant the firm of HALE AND DORR LLP the power to insert on this Declaration any further identification, including the application number and filing date, which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document

I hereby appoint the following registered practitioners, and all registered practitioners listed at **customer number 24395**:

Scott M. Alter, Reg. No. 32,879; Hollie L. Baker, Reg. No. 31,321; Barbara A. Barakat, Reg. No. 32,190; Steven D. Barrett, Reg. No. 40,903; Michael J. Bevilacqua, Reg. No. 31,091; Sally Byrne, Reg. No. 40,545; David L. Cavanaugh, Reg. No. 36,476; David J. Cerveney, Reg. No. 44,600; Nancy Chiu, Reg. No. 43,545; Michael A. Diener, Reg. No. 37,122; Peter M. Dichiaro, Reg. No. 38,005; Gregory S. Discher, Reg. No. 42,488; Irah H. Donner, Reg. No. 35,120; Richard A. Goldenberg, Reg. No. 38,895; Edward D. Grieff, Reg. No. 38,898; Joseph F. Haag, Reg. No. 42,612; Wendy A. Haller, Reg. No. 35,177; Anthony H. Kahng, Reg. No. 42,704; Wayne M. Kennard, Reg. No. 30,271; Wayne A. Keown, Reg. No. 33,923; Ann-Louise Kerner, Reg. No. 33,523; Janice M. Klunder, Reg. No. 41,121; James B. Lampert, Reg. No. 24,564; Ayla A. Lari, Reg. No. 43,739; Nels Lippert, Reg. No. 25,888; Maria L. Maebius, Reg. No. 42,967; Dominic Massa, Reg. No. 44,905; Nels Lippert, Reg. No. 25,888; Maria L. Maebius, Reg. No. 42,967; Dominic Massa, Reg. No. 44,905; Robert McIsaac, Reg. No. 46,918; Cynthia K. Nicholson, Reg. No. 36,880; Keum J. Park, Reg. No. 42,059; Jason A. Reyes, Reg. No. 41,513; Gretchen A. Rice, Reg. No. 37,429; MaryRose Scozzafava, Reg. No. 36,268; Victor F. Souto, Reg. No. 33,458; Donald R. Steinberg, Reg. No. 37,241; Colleen Superko, Reg. No. 39,850; C. Hall Swaim, Reg. No. 22,838; Leonid D. Thenor, Reg. No. 39,397; Michael J. Twomey, Reg. No. 38,349; Rajesh Vallabh, Reg. No. 35,761; Gary A. Walpert, Reg. No. 26,098; Lisa M. Wilson, Reg. No. 34,045; Henry N. Wixon, Reg. No. 32,073; and Luke J. Yeh, Reg. No. 43,296.

with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all future correspondence should be addressed to them at the address at **customer number 24395**, and specifically:

HALE AND DORR  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004  
TEL 202.942.8400  
FAX 202.942.8484

\*\*\*\*\*

Full name of sole or first inventor: Peter J. McCarthy

Inventor's signature:

Date:

Residence: New York, New York

Citizenship: USA

Post Office Address: 34 West 33<sup>rd</sup> Street, Suite 1016, New York, New York 10001

\*\*\*\*\*

COPY

\*\*\*\*\*:

Full name of sole or first inventor: Kevin Ingram

Inventor's signature:

Date:

Residence: Jersey City, New Jersey

Citizenship: USA

Post Office Address: 55-1909 River Drive South, Jersey City, New Jersey 07310

\*\*\*\*\*:



COPY

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

Postage \$ 80 Riddle  
Certified Fee 210  
Return Receipt Fee (Endorsement Required) 150  
Restricted Delivery Fee (Endorsement Required)  
Total Postage & Fees \$ 440

Postmark  
Here

Sent To Kevin Ingram  
Street, Apt. No. or PO Box No. 55-1909 River Drive South  
City, State, ZIP+4 Jersey City, New Jersey 07310  
PS Form 3800, May 2000 See Reverse for Instructions

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Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Kevin Ingram  
55-1909 River Drive South  
Jersey City, NJ 07310

4a. Article Number  
70001672000608665938

4b. Service Type

☒ Registered ☒ Certified  
☐ Express Mail ☐ Insured  
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery  
9/22/01

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)  
X Victor Calero

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

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1455 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. 20004-1008  
202-942-8400 • FAX 202-942-8484



GREGORY S. DISCHER

202-942-8437  
gregory.discher@haledorr.com

October 4, 2001

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DEC 19 2001

OFFICE OF PETITIONS

By Federal Express

Kevin Ingram  
55-1909 River Drive South  
Jersey City, New Jersey 07310

Re: U.S. Patent Application No. 09/809,429  
For: SYSTEM, METHOD AND MEDIUM FOR TRADING FIXED INCOME  
SECURITIES  
Our Reference: 111472.120US1

Dear Mr. Ingram:

Further to our letter of September 19, 2001, we enclose for your signature a second Declaration and Power of Attorney form for the above-referenced application. We have also enclosed a self-addressed stamped envelope for your convenience.

You must return the executed Declaration and Power of Attorney by **October 11, 2001**. If we do not receive the executed Declaration and Power of Attorney by that date, we will proceed to prosecute the above-identified patent application before the U.S. Patent and Trademark Office, indicating that you are a non-signing joint inventor. We would like to avoid this situation, but, in the end, how we proceed is entirely up to you.

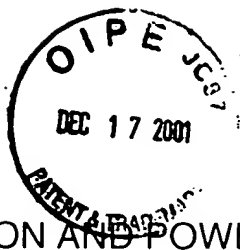
Please call if you have any questions.

Very truly yours,

Gregory S. Discher

GSD:lrr

Docket No.: 111472.120US1



COPY

PATENT/OFFICIAL

## DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter claimed and for which a patent is sought on the invention entitled:

SYSTEM, METHOD AND MEDIUM FOR TRADING FIXED INCOME SECURITIES,

the specification of which was filed on March 16, 2001 as Application Serial No. 09/809,429.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to me to be material to patentability in accordance with Title 37 Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT international application which designated at least one country other than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s):			Priority Claimed	
<u>Number</u>	<u>Country</u>	<u>Day/Month/Year filed</u>	<u>Yes</u>	<u>No</u>

I hereby claim the benefit under 35 USC 119(e) of any United States provisional application(s) listed below.

Prior Provisional Application(s):	
<u>Application Number</u>	<u>Filing Date</u>

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s), or Section 365(c) of any PCT international application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U. S. Non-Provisional Application(s):		
<u>Serial No.</u>	<u>Filing Date</u>	<u>Status: Patented, Pending, Abandoned</u>

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and

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belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby grant the firm of HALE AND DORR LLP the power to insert on this Declaration any further identification, including the application number and filing date, which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document

I hereby appoint the following registered practitioners, and all registered practitioners listed at **customer number 24395**:

Scott M. Alter, Reg. No. 32,879; Hollie L. Baker, Reg. No. 31,321; Barbara A. Barakat, Reg. No. 32,190; Steven D. Barrett, Reg. No. 40,903; Michael J. Bevilacqua, Reg. No. 31,091; Sally Byrne, Reg. No. 40,545; David L. Cavanaugh, Reg. No. 36,476; David J. Cerveney, Reg. No. 44,600; Nancy Chiu, Reg. No. 43,545; Michael A. Diener, Reg. No. 37,122; Peter M. Dichiaro, Reg. No. 38,005; Gregory S. Discher, Reg. No. 42,488; Irah H. Donner, Reg. No. 35,120; Richard A. Goldenberg, Reg. No. 38,895; Edward D. Grief, Reg. No. 38,898; Joseph F. Haag, Reg. No. 42,612; Wendy A. Haller, Reg. No. 35,177; Anthony H. Kahng, Reg. No. 42,704; Wayne M. Kennard, Reg. No. 30,271; Wayne A. Keown, Reg. No. 33,923; Ann-Louise Kerner, Reg. No. 33,523; Janice M. Klunder, Reg. No. 41,121; James B. Lampert, Reg. No. 24,564; Ayla A. Lari, Reg. No. 43,739; Nels Lippert, Reg. No. 25,888; Maria L. Maebius, Reg. No. 42,967; Dominic Massa, Reg. No. 44,905; Nels Lippert, Reg. No. 25,888; Maria L. Maebius, Reg. No. 42,967; Dominic Massa, Reg. No. 44,905; Robert McIsaac, Reg. No. 46,918; Cynthia K. Nicholson, Reg. No. 36,880; Keum J. Park, Reg. No. 42,059; Jason A. Reyes, Reg. No. 41,513; Gretchen A. Rice, Reg. No. 37,429; MaryRose Scozzafava, Reg. No. 36,268; Victor F. Souto, Reg. No. 33,458; Donald R. Steinberg, Reg. No. 37,241; Colleen Superko, Reg. No. 39,850; C. Hall Swaim, Reg. No. 22,838; Leonid D. Thenor, Reg. No. 39,397; Michael J. Twomey, Reg. No. 38,349; Rajesh Vallabh, Reg. No. 35,761; Gary A. Walpert, Reg. No. 26,098; Lisa M. Wilson, Reg. No. 34,045; Henry N. Wixon, Reg. No. 32,073; and Luke J. Yeh, Reg. No. 43,296.

with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all future correspondence should be addressed to them at the address at **customer number 24395**, and specifically:

HALE AND DORR  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004  
TEL 202.942.8400  
FAX 202.942.8484

\*\*\*\*\*

Full name of sole or first inventor: Peter J. McCarthy

Inventor's signature:

Date:

Residence: New York, New York

Citizenship: USA

Post Office Address: 34 West 33<sup>rd</sup> Street, Suite 1016, New York, New York 10001

\*\*\*\*\*

COPY

\*\*\*\*\*

Full name of sole or first inventor: Kevin Ingram

Inventor's signature:

Date:

Residence: Jersey City, New Jersey

Citizenship: USA

Post Office Address: 55-1909 River Drive South, Jersey City, New Jersey 07310

\*\*\*\*\*

COPY

**Subject:** FedEx shipment 792453233388

**Date:** Fri, 5 Oct 2001 11:21:10 -0500 (CDT)

**From:** <sysdeliv@esprim6.prod.fedex.com>, FedEx <webmaster@fedex.com>

**Reply-To:** FedEx <webmaster@fedex.com>

**To:** <lisa.riddle@haledorr.com>

Our records indicate that the shipment sent from Gregory S. Discher/HALE AND DORR LLP to Kevin Ingram has been delivered.  
The package was delivered on 10/5/2001 at 9:29 AM and signed for or released by E.WAGTOWICZ.

The ship date of the shipment was 10/4/2001.

The tracking number of this shipment was 792453233388.

Thank you for shipping with FedEx Ship Manager at FedEx.com.  
[https://www.fedex.com/cgi-bin/ship\\_it/interNetShip/](https://www.fedex.com/cgi-bin/ship_it/interNetShip/)

To track the status of this shipment on line click on the following:

<http://www.fedex.com/cgi-bin/tracking?tracknumbers=792453233388&action=track&language=>

Disclaimer

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FedEx has not validated the authenticity of any email address.



Docket No.: 111472.120US1

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

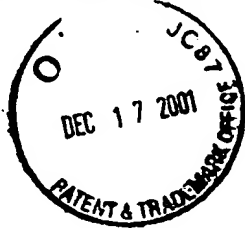
In re Application of

Peter J. McCarthy et al.

Serial No. 09/809,429

Filed: March 16, 2001

For: SYSTEM, METHOD AND MEDIUM FOR TRADING FIXED INCOME SECURITIES



Group Art Unit: 2161

Examiner:

**AFFIDAVIT**

**RECEIVED**

Honorable Commissioner for Patents  
Washington, D. C. 20231

DEC 19 2001  
OFFICE OF PETITIONS

Sir:

Refusal of an inventor to sign a declaration may be overcome by submitting an affidavit of the facts, the required fee, and the last known address of the non-signing inventor, according to 37 CFR §1.47(a), as amplified in MPEP 409 and MPEP 409.03(d).

I hereby submit this affidavit pursuant to 37 CFR §1.47(a) that one inventor of the referenced application, Mr. Kevin Ingram, has repeatedly refused to sign a declaration of inventorship. Upon information and belief, the following facts of Mr. Ingram's conduct pointing to a refusal, are:

On February 8, 2001, the undersigned sent the first draft of the above-identified patent application to TruMarkets, Inc. A copy of the transmittal letter dated February 8, 2001 is enclosed.

On June 5, 2001, Mr. Ingram signed an Assignment agreement assigning the invention described in application 09/809,429 to TruMarkets, Inc., predecessor corporation to TruMarkets, LLC, and he clearly and in plain language agreed to assign to TruMarkets, Inc. all of his inventions made in connection with application 09/809,429. Mr. Ingram was an employee of TruMarkets, Inc. on the date he assigned his rights to TruMarkets, Inc., but was not employed by TruMarkets, Inc. when the undersigned initiated correspondence with Mr. Ingram on September 19, 2001 (as discussed herein). Copies of the Assignment agreement signed by Mr. Ingram and a Certificate of Merger are enclosed.

On March 16, 2001, Mr. David Lestz, Esq., attorney for TruMarkets, Inc., sent an e-mail to the undersigned authorizing the above-identified application to be filed. The e-mail explicitly stated

that Kevin Ingram (the non-signing inventor) authorized the above-identified application to be filed. A copy of the e-mail is enclosed.

On September 19, 2001, the undersigned sent via certified mail a letter and declaration of inventorship to Mr. Ingram. A self-addressed stamped envelope was also enclosed for Mr. Ingram's convenience in returning the executed declaration of inventorship to us. Copies of the September 19, 2001 letter, declaration of inventorship, and U.S. Post Office return receipt are enclosed.

On September 28, 2001, Mr. Ingram left the undersigned a voice mail message at his work telephone number (202) 942-8437 regarding the declaration of inventorship sent with our September 19 letter.

On September 28, 2001, the undersigned, in response to Mr. Ingram's September 28, 2001 voice mail message, left Mr. Ingram a voice mail message on his home telephone number (201) 626-2153, explicitly informing him of the requirement to sign the declaration of inventorship.

On October 4, 2001, the undersigned sent via Federal Express a second letter and declaration of inventorship to Mr. Ingram. A self-addressed stamped envelope was enclosed for Mr. Ingram's convenience in returning the executed declaration of inventorship to us. Copies of the October 4, 2001 letter, declaration of inventorship, and Federal Express return receipt are enclosed.

On each of October 9, October 11, and October 12, the undersigned left a voice mail message at Mr. Ingram's home telephone number (201) 626-2153, requesting him to return the executed signed declaration of inventorship.

Mr. Ingram has not contacted us since his September 28, 2001 voice mail message.

The last known address of Mr. Ingram is:

55-1909 River Drive South

Jersey City, New Jersey 07310.

I, Gregory S. Discher, do hereby affirm that, to the best of my knowledge, the facts of the case are as stated above.

Respectfully submitted,

HALE AND DORR LLP



Gregory S. Discher  
Registration No. 42,488

**RECEIVED**

DEC 19 2001

OFFICE OF PETITIONS

The Willard Office Building  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004

202 942 8484 GSD:lrr

Date: 12/17/01

DC #151741

**CERTIFICATE OF MERGER**

**OF**

**TRUMARKETS, INC.**  
(a Delaware corporation)

**INTO**

**TRUMARKETS, LLC**  
(a Delaware limited liability company)

**UNDER THE DELAWARE LIMITED LIABILITY COMPANY ACT**

**RECEIVED**

DEC 1 9 2001

OFFICE OF PETITIONS

The undersigned limited liability company, pursuant to Section 18-209 of the Delaware Limited Liability Company Act, submits the following Certificate of Merger for filing and DOES HEREBY CERTIFY:

**FIRST:** That the name and state of formation or organization of each of the constituent entities of the merger are as follows:

<u>NAME</u>	<u>STATE OF INCORPORATION</u>
TruMarkets, Inc.	Delaware
TruMarkets, LLC	Delaware

**SECOND:** That an Agreement and Plan of Merger (the "Agreement and Plan of Merger") dated as of May 4, 2001, between the constituent entities, setting forth the terms and conditions of the merger, has been approved and executed by each of the constituent entities in accordance with the requirements of the Delaware Limited Liability Company Act and the requirements of the General Corporation Law of the State of Delaware.

**THIRD:** That the surviving entity of the merger is TruMarkets, LLC, under the name "TruMarkets, LLC," a Delaware limited liability company.

**FOURTH:** That the Certificate of Formation of TruMarkets, LLC shall be the Certificate of Formation of the surviving limited liability company.

**FIFTH:** That the Operating Agreement of TruMarkets, LLC shall be the Operating Agreement of the surviving limited liability company.

**SIXTH:** That a copy of the Agreement and Plan of Merger is on file at the principal place of business of the surviving limited liability company, which is located at 34 West 33<sup>rd</sup> Street, Suite 1016, New York, NY 10001.

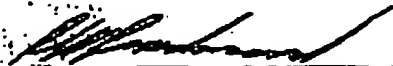
**SEVENTH:** That a copy of the Agreement and Plan of Merger will be furnished by the surviving limited liability company, on request and without cost, to any stockholder of the constituent corporation or any member of the constituent limited liability company which are to merge.

**EIGHTH:** That the merger shall be effective upon filing of this Certificate of Merger.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this 8th day of June, 2001.

**TRUMARKETS, LLC**, a Delaware limited liability company

By: **TRUMARKETS, INC.**, as its sole member

By:   
Name: Ronald W. Readmond  
Title: President & CEO  
JUN 12 2001